

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS www.uspin.gov. D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,104	07/13/2000	Takashi Ohsaki	M1873-21	4085
	90 07/23/2002			
Morrison Law Firm 145 North Fifth Avenue			EXAMINER	
Mt Vernon, NY			HENDRICKSON, STUART L	
			ART UNIT	PAPER NUMBER
			1754 DATE MAILED: 07/23/2002	7

Please find below and/or attached an Office communication concerning this application or proceeding.

·			MI				
Office Action Summary	Application No.	Applicant(s)	-iv				
•	Examine Libby CKS.	Group Art Unit					
-The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -							
Period for Reply	? .						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO OF THIS COMMUNICATION.	· ·	MONTH(S) FROM THE MA					
 Extensions of time may be available under the provisions of 37 CFR 1.1 from the mailing date of this communication. If the period for repty specified above is less than thirty (30) days, a rept If NO period for repty is specified above, such period shall, by default, e Failure to repty within the set or extended period for repty will, by statute Any repty received by the Office later than three months after the mailing term adjustment. See 37 CFR 1.704(b). 	bly within the statutory minin expire SIX (6) MONTHS from	mum of thirty (30) days will be considered the mailing date of this communic	idered timely. cation.				
Status Responsive to communication(s) filed on 3/25/01							
☐ This action is FINAL.	10		•				
☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 1 1; 453 O.G. 213.							
Disposition of Claims	· · · · · · · · · · · · · · · · · · ·						
∑ Claim(s) [- 1 2		is/are pending in the appl	lication.				
Of the above claim(s)	1 (10 1 1	is/are withdrawn from cor					
☐ Claim(s)		is/are allowed.	Blutiaut				
)X. Claim(s)	Ŋ	is/are rejected.					
□ Claim(s)	·	is/are objected to.					
□ Claim(s)		are subject to restriction (or election				
□ The proposed drawing correction, filed on	is □ approved □	requirement	1 61662				
☐ The drawing(s) filed on is/are objected to by the Examiner							
☐ The specification is objected to by the Examiner.		•					
☐ The oath or declaration is objected to by the Examiner.		• •	-				
Priority under 35 U.S.C. § 119 (a)-(d)							
☐ Acknowledgement is made of a claim for foreign priority under	or 35 U.S.C. § 119 (a)-/	/A					
☐ All ☐ Some* ☐ None of the:	3 00 0.0.0. g	.					
☐ Certified copies of the priority documents have been rece							
☐ Certified copies of the priority documents have been received in Application No							
☐ Copies of the certified copies of the priority documents have been received							
in this national stage application from the International Bu *Certified copies not received:)					
Attachment(s)			-•				
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s).	□ Inte	erview Summary, PTO-413					
Notice of Reference(s) Cited, PTO-892		•	·				
□ Notice of Draftsperson's Patent Drawing Review, PTO-948	· Note	tice of Informal Patent Applications Mol patent Mol m	100, PTO-152				
Office Action Summary							
			,				

Application/Control Number: 09/615,104

Art Unit: 1754

and the second s

The election with traverse is noted. However 1) no substantial argument was made as to why the restriction was improper, so it is taken as no traverse. 2) Claim 10 does not include all the limitations of the product claims- in fact, it does not include any substantial limitation of the product claims- and therefore it will not be rejoined if the product is allowed. 3) Claim 10 is requested to be canceled- and if it were, it cannot be rejoined (because it no longer would exist as a claim). Claims cannot be 'provisionally' canceled, and if cancellation is requested, it must be made as an amendment, and not a comment in the arguments section.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jose-Yacaman et al article, with Ota et al. and Nolan et al. cited for inherent properties.

The article teaches on pg. 657 and 659 carbon nanotubes of rolled graphitic planes (hollow nanotubes). The material is compared to that of the very well known Iijima Nature 1991 product, which has a diameter of 1nm, as reported by Ohta et al. column 1. Therefore, it has the diameter claimed. The thickness part (ie, a section of the nanotube which can be assigned that name) is deemed to possess hydrogen because of the teaching of Nolan et al. column 1-2. Therefore, the fiber of Yacaman is deemed to possess the claimed properties, and was made using an iron catalyst. No differences are seen, especially as the synthesis is similar to that presently disclosed. It is noted that the claims do not require that the 'hollow part' have a different thickness than the 'thickness part'. Perhaps a definite limitation thereto was meant.

Application/Control Number: 09/615,104

Art Unit: 1754

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohta et al,

Page 3

with Nolan et al. cited for inherent properties.

Ohta teaches in column 5-6 hydrogenated fullerene materials bonded together to make complex

structures of the claimed diameter, such as in fig 1A. From the bond length, the diameter is

readily calculated to be within the claimed range. While hydrogen is not taught to be present in

the C60 bulge, it is deemed present, since 1) it was there before the fabrication of the structure

and only 1 atom is required by the claims and 2) Nolan column 2 indicates the presence of

hydrogen even in so-called hydrogen-free systems. Therefore, the material of Ohta is deemed to

possess the claimed properties.

Any inquiry concerning this communication should be directed to examiner Hendrickson

at telephone number (703) 308-2539.

Stuart Hendrickson

examiner Art Unit 1754